

## **COUNCIL**

**12 AUGUST 2015**

### **PROPOSED CHANGES TO COUNCIL RULES ON QUESTIONS AT COUNCIL MEETINGS**

Portfolio Holder: Councillor Andrew Mackness, Corporate Services

Report from: Neil Davies, Chief Executive

#### **Summary**

This report has been produced at the request of the Cabinet Member for Corporate Services and presents recommendations for changes to Council rules 8 and 9 in the Constitution which relate to questions from the public and Members at Council meetings.

#### **1. Budget and Policy Framework**

- 1.1 Paragraph 14.3 (Changes to the Constitution) of Article 14 of the Constitution states that changes to the Constitution are a matter for Council (except for minor changes where the Monitoring Officer has delegated authority with a copy of such changes being supplied to all Group Leaders and Whips within 14 days).
- 1.2 Paragraph 16.2 (Amendment to Council Rules) of Part 1, Chapter 4 of the Constitution states that any motion to add to, change or withdraw these Council Rules, will when proposed and seconded, be taken forward without discussion to the next ordinary meeting of the Council.

#### **2. Background**

- 2.1 The Cabinet Member for Corporate Services has asked for a report to Council recommending changes to Council Rules 8 and 9 which relate to questions at Council meetings from the public and Members of the Council. The current rules with proposed changes are attached at Appendix A to this report.
- 2.2 The reason given by the Cabinet Member for this request is the high volume of public questions received for full Council meetings in Medway and the extent to which it is not always possible to deal with them all in the thirty minutes allowed for public questions. This has generated public disorder at some meetings and disappointment arising from decisions of the Council on several occasions not to extend the time limit sufficiently to allow all the public questioners to receive an answer at the meeting. The Cabinet Member is

also suggesting that the rules for public questions and questions from Members of the Council at Council meetings should be more closely aligned.

- 2.3 Associated background is a request from the Councillor Conduct Committee in 2014 for a review of public question procedures. This was a request following consideration of a particular complaint during which process the Independent Person (under the Councillor conduct regime) expressed a view that Council Rule 8.3 could be interpreted to require written answers to be provided after Council meetings where a “clear answer” is not provided at the meeting even though a response to the question may have been “provided” within the time limits at the meeting. (Council rule 8.3 currently says: any questions that have not been **dealt with** within the time limits will receive a written reply after the meeting).

### 3. Options

- 3.1 The Cabinet Member for Corporate Services has expressed a wish to provide a better experience for members of the public who take the trouble to come to Council meetings to ask a question and to also more closely align the provisions for public questions and questions from Members of the Council. There are a number of options including:

- changing the Constitution to extend the time allowed for public questions, although this would reduce the time available to deal with other business
- removing the facility for second and/or supplementary questions which would increase the likelihood of all public questions being dealt with within the thirty minute timescale
- limiting the number of questions an individual or organisation can ask
- discontinuing the practice of allowing substitutes to ask questions if a questioner cannot be present
- introducing a rule which limits the time allowed for answers provided to questions at Council meetings

- 3.2 As part of this review the Council may also wish to amend Council rule 8.3 so that the final sentence reads “Any questions **that have not received a response** within the times limits will receive a written reply after the meeting”, as a response to the suggestion of the Independent Person under the Councillor Conduct regime.

### 4. Advice and analysis

- 4.1 The Council has taken some action in response to the pressure on public question time at Council meetings and to address complaints and feedback received.
- 4.2 This has included suspending the rule requiring questioners to read out their questions (which speeds up the rate at which questions can be dealt with), providing hard copies of all public questions on each seat in the public gallery and projecting questions on to the large screens at the St Georges Centre (albeit with mixed feedback on the effectiveness of this).
- 4.3 Efforts are being made to provide written answers to public questions not dealt with in the time allowed within a week of the meeting. These written answers are also published on the Council’s website.

- 4.4 An audio recording of every Council meeting is now added to the Council's website the day after each meeting although there has been some feedback that it is difficult to match the answers provided to the relevant public question when questioners do not read out their questions. In response to this members of the public accessing the audio recording are signposted to the printed list of questions on the Council agenda.
- 4.5 It is a matter for the Council to determine arrangements for questions at Council meetings. There is variable practice across local authorities and the level of take-up by the public of the facility to ask questions also varies considerably across authorities.

## 5. Risk management

- 5.1 Risk management is an integral part of good governance. The Council has a responsibility to identify and manage threats and risks to achieve its strategic objectives and enhance the value of services it provides to the community.

| <b>Risk</b>  | <b>Description</b>   | <b>Action to avoid or mitigate risk</b>  |
|--|--|--|
| Insufficient time to provide answers to public questions at Council meetings                         | Pressure on public question time at Council meetings has generated public disorder and dissatisfaction with current arrangements | Change the Council rules with a view to ensuring the public receive an answer to questions at Council meetings   |
| Dissatisfaction with removal of provision for second and supplementary questions at Council meetings | There may be differing points of view on a proposal to remove the provision for second and supplementary questions               | It is a matter for the Council to determine the arrangements for questions at Council meetings having regard to the need to balance the promotion of public involvement with the need for efficient conduct of this and other business on each agenda. |

## 6. Consultation

- 6.1 All Members of the Council will be able to contribute to the debate on this report when it is considered at the Council meeting on 15 October 2015. There is no requirement to formally consult the public on changes to Council rules.

## **7. Financial implications**

- 7.1 There are no financial implications arising from the recommendations in this report. The costs associated with processing questions received for Council meetings are met from within existing budgets.

## **8. Legal implications**

- 8.1 Under the Local Government Act 2000 (as amended by the Localism Act 2011) local authorities are required to operate one of three forms of governance; executive arrangements, a committee system or arrangements prescribed by the Secretary of State. Medway has chosen to operate executive arrangements with a Leader and Cabinet.
- 8.2 Section 37 of the Local Government Act 2000 requires the Council to prepare, publicise and keep up to date a Constitution which must contain the authority's standing orders (or Council rules). In 2000 the Secretary of State issued a model modular constitution and statutory guidance to which local authorities were required to have regard when implementing the 2000 Act. With the exception of statutory standing orders, such as the rules on recorded votes, the Council has discretion to determine the content of the Council rules including the arrangements for questions at Council meetings.
- 8.3 The Council Rules on public questions in Medway's Constitution are broadly in line with the illustrative procedure in the modular constitution issued in 2000. The model rules recommend thirty minutes for public questions and allow for one supplementary question per questioner. However, the model rules recommend one question per person or organisation at any one meeting.
- 8.4 In taking a decision on this matter the Council should have regard to the rights of local people to participate in public question time at Council meetings as set out in Article 1 of the Constitution and to the need for Council rules which facilitate the efficient conduct of other business at Council meetings.

## **9. Recommendations of the Cabinet Member for Corporate Services:**

- 9.1 The Council is recommended by the Cabinet Member for Corporate Services to approve revisions to Council Rule 8 ( Questions by the Public) and Council Rule 9 (Questions by Members) as set out in Appendix A to this report which give effect to the following changes:
- a) Closer alignment of the rules for questions at Council meetings from the public and Members (but with the retention of 30 minutes for public questions and 20 minutes for questions from Members);
  - b) removal of a facility for second and supplementary questions
  - c) limiting any person, organisation or Member to no more than one question at each Council meeting
  - d) discontinuation of the practice of allowing substitutes to ask questions if a questioner cannot be present with a written answer to be supplied after the meeting instead
  - e) introduction of a rule which limits the time allowed for answers provided to questions at Council minutes to three minutes

- f) amendment of Council rule 8.3 so that the final sentence reads “Any questions **that have not received a response** within the times limits will receive a written reply after the meeting”, as a response to the suggestion of the Independent Person under the Councillor Conduct regime

(**Note:** Once proposed and seconded these recommendations will be taken forward without discussion for debate at the next ordinary meeting of the Council as set out in paragraph 1.2 of this report).

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### **Appendices**

Appendix A – Proposed changes to Council Rules 8 and 9.

### **Background papers**

None



## APPENDIX A

### PROPOSED CHANGES TO COUNCIL RULES 8 AND 9

#### 8. RULE 8 - QUESTIONS BY THE PUBLIC

##### 8.1 General

Members of the public may ask questions of members of the Cabinet, or of chairs of Committees, at ordinary meetings of the Council.

##### 8.2 Notice of questions

A question may be asked if notice has been given in writing, or by electronic mail, to the Chief Executive by midday seven working days before the day of the meeting. Each question must give the name and address of the questioner and must name the member of the Council to whom it is to be put.

##### 8.3 Number of questions

At any one meeting no person or organisation may submit more than one question, ~~and no more than two questions may be asked on behalf of one organisation.~~ Members of the public who have not submitted questions before will be given priority over those who have, ~~and second questions will only be dealt with when all first questions have been dealt with.~~ Any questions that have not been answered at the meeting ~~been dealt with~~ within the time limits will be answered in writing ~~receive a written reply~~ after the meeting.

##### 8.4 Scope of questions

The Chief Executive may reject a question if it:

- is not about a matter for which the Council has responsibility or which does not affect the area;
- is frivolous, defamatory, offensive, racist, sexist, homophobic or otherwise improper;
- is substantially the same as a question which has been put at a meeting of the Council in the past six months;
- requires the disclosure of confidential or exempt information.

## 8.5 Record of questions

The Chief Executive will enter each question in a book open to public inspection and will immediately send a copy of the question to the member to whom it is put. Rejected questions will include reasons for rejection. If the question has been rejected because it is considered frivolous, defamatory, offensive, racist, sexist, homophobic or otherwise improper then only the fact that a question was received and that it was considered so, will be entered.

Copies of all questions will be circulated to all members and will be made available to the public attending the meeting.

## 8.6 Asking the question at the meeting

The Mayor will invite the questioner to put the question to the member named. ~~If a questioner who has submitted a question is unable to be present, the question will be circulated in writing if it is not on the agenda.~~ The person to whom the question has been put will normally answer the question verbally after the question has been put. The time allowed for answers to each question at Council meetings shall not exceed three minutes. If a questioner who has submitted a question is unable to be present, the question will be answered in writing after the meeting

~~The questioner is entitled to put one short supplementary question and have one supplementary reply. There is no provision for supplementary questions.~~

## 9. RULE 9 - QUESTIONS BY MEMBERS

### 9.1 Questions on notice

A member of the Council may ask a question with notice on matters to do with their Council responsibilities to:

- the Leader;
- a member of the Cabinet;
- the chairman of any Committee or Sub-Committee.

At any one meeting no member of the Council may submit more than one question. The questioner is entitled to put one short (up to one minute) supplementary question and have one supplementary reply. The time allowed for answers to each question at Council meetings shall not exceed three minutes. If a Member who has submitted a question is unable to be present, the question will be answered in writing. There is no provision for supplementary questions.

## 9.2 Notice and scope of questions

A member may only ask a question under Rule 98.1 if either:

- (a) they have given at least seven working days notice in writing or by electronic mail, of the question to the Chief Executive; or
- (b) the question relates to urgent matters, they have the consent of the person to whom the question is to be put and the content of the question is given to the Chief Executive by noon on the day of the meeting.

The Chief Executive may reject a question if it:

- is not about a matter for which the Council has responsibility or which does not affect the area;
- is frivolous, defamatory, offensive, racist, sexist, homophobic or otherwise improper;
- is substantially the same as a question which has been put at a meeting of the Council in the past six months;

The reason for rejection of any question shall be recorded and notified to the Member concerned.

## 9.3 Response

An answer may take the form of:

- (a) a direct verbal answer;
- (b) where the desired information is in a publication of the Council or other published source, a reference to that source;
- (c) where the reply cannot conveniently be given orally, a written answer circulated later to the questioner, including the reason for the inconvenience.